

Article 23.

Miscellaneous Provisions.

**§ 153A-435. Liability insurance; damage suits against a county involving governmental functions.**

(a) A county may contract to insure itself and any of its officers, agents, or employees against liability for wrongful death or negligent or intentional damage to person or property or against absolute liability for damage to person or property caused by an act or omission of the county or of any of its officers, agents, or employees when acting within the scope of their authority and the course of their employment. The board of commissioners shall determine what liabilities and what officers, agents, and employees shall be covered by any insurance purchased pursuant to this subsection.

Purchase of insurance pursuant to this subsection waives the county's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. Participation in a local government risk pool pursuant to Article 23 of General Statute Chapter 58 shall be deemed to be the purchase of insurance for the purposes of this section. By entering into an insurance contract with the county, an insurer waives any defense based upon the governmental immunity of the county.

If a county uses a funded reserve instead of purchasing insurance against liability for wrongful death, negligence, or intentional damage to personal property, or absolute liability for damage to person or property caused by an act or omission of the county or any of its officers, agents, or employees acting within the scope of their authority and the course of their employment, the county board of commissioners may adopt a resolution that deems the creation of a funded reserve to be the same as the purchase of insurance under this section. Adoption of such a resolution waives the county's governmental immunity only to the extent specified in the board's resolution, but in no event greater than funds available in the funded reserve for the payment of claims.

(b) If a county has waived its governmental immunity pursuant to subsection (a) of this section, any person, or if he dies, his personal representative, sustaining damages as a result of an act or omission of the county or any of its officers, agents, or employees, occurring in the exercise of a governmental function, may sue the county for recovery of damages. To the extent of the coverage of insurance purchased pursuant to subsection (a) of this section, governmental immunity may not be a defense to the action. Otherwise, however, the county has all defenses available to private litigants in any action brought pursuant to this section without restriction, limitation, or other effect, whether the defense arises from common law or by virtue of a statute.

Despite the purchase of insurance as authorized by subsection (a) of this section, the liability of a county for acts or omissions occurring in the exercise of governmental functions does not attach unless the plaintiff waives the right to have all issues of law or fact relating to insurance in the action determined by a jury. The judge shall hear and determine these issues without resort to a jury, and the jury shall be absent during any motion, argument, testimony, or announcement of findings of fact or conclusions of law relating to these issues unless the defendant requests a jury trial on them. (1955, c. 911, s. 1; 1973, c. 822, s. 1; 1985 (Reg. Sess., 1986), c. 1027, s. 27; 2003-175, s. 2.)

**§ 153A-436. Photographic reproduction of county records.**

(a) A county may provide for the reproduction, by photocopy, photograph, microphotograph, or any other method of reproduction that gives legible and permanent

copies, of instruments, documents, and other papers filed with the register of deeds and of any other county records. The county shall keep each reproduction of an instrument, document, paper, or other record in a fire-resistant file, vault, or similar container. If a duplicate reproduction is made to provide a security-copy, the county shall keep the duplicate in a fire-resistant file, vault, or similar container separate from that housing the principal reproduction.

If a county has provided for reproducing records, any custodian of public records of the county may cause to be reproduced any of the records under, or coming under, his custody.

(b) If a county has provided for reproducing some or all county records, the custodian of any instrument, document, paper, or other record may permit it to be removed from its regular repository for up to 24 hours in order to be reproduced. An instrument, document, paper or other record may be removed from the county in order to be reproduced. The board of commissioners may permit an instrument, document, paper, or other record to be removed for longer than 24 hours if a longer period is necessary to complete the process of reproduction.

(c) The original of any instrument, document, or other paper received by the register of deeds and reproduced pursuant to this Article shall be filed, maintained, and disposed of in accordance with G.S. 161-17 and G.S. 121-5. The original of any other county record that is reproduced pursuant to this Article may be kept by the county or disposed of pursuant to G.S. 121-5.

(d) If an instrument, document, or other paper received by the register of deeds is reproduced pursuant to this Article, the recording of the reproduction is a sufficient recording for all purposes.

(e) A reproduction, made pursuant to this Article, of an instrument, document, paper, or other record is as admissible in evidence in any judicial or administrative proceeding as the original itself, whether the original is extant or not. An enlargement or other facsimile of the reproduction is also admissible in evidence if the original reproduction is extant and available for inspection under the direction of the court or administrative agency.

(f) The provisions of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. Nonerasable, computer-readable storage media may be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d). (1945, c. 286, ss. 1-7; c. 944; 1951, c. 19, ss. 1-6; 1953, c. 675, ss. 23, 24; 1957, c. 330, s. 3; 1973, c. 822, s. 1; 1999-131, s. 4; 1999-456, s. 47(d); 2011-326, s. 13(d).)

#### **§ 153A-436.1. SBI and State Crime Laboratory access to view and analyze recordings.**

The local law enforcement agency of any county that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view

and analyze the recording upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory. (2016-88, s. 2(a).)

**§ 153A-437. Assistance to historical organizations.**

(a) A county or city may appropriate revenues not otherwise limited as to use by law to a local historical or preservation society, museum, or other similar organization. Before such an appropriation may be made, the recipient organization shall adopt and present to the county or city a resolution requesting the funds and describing the intended use of the funds. The funds may be used for preserving historic sites, buildings, structures, areas, or objects; for recording and publishing materials relating to the history of the area; for establishing or maintaining historical museums or projects; for paying salaries of personnel employed in such museums or projects; for the costs of acquiring, recording, and maintaining materials and equipment; and for any other purposes that are approved by the county or city and that contribute to the preservation of historic sites, buildings, structures, areas, or objects, or historic materials. The ordinance making the appropriation shall state specifically what the appropriation is to be used for, and the governing board of the county or city shall require that the recipient account for the appropriation at the close of the fiscal year.

(b) A county or city, a board of education, or the board of trustees of a public library may make available space in a building under its control to a local historical society, historical museum, or other historical organization.

(c) This section is supplemental to and does not supersede any other law. (1955, c. 371, ss. 1-4; 1957, c. 398; 1973, c. 822, s. 1.)

**§ 153A-438. Beach erosion control and flood and hurricane protection works.**

A county may appropriate revenues not otherwise limited as to use by law to finance the acquisition, construction, reconstruction, extension, maintenance, improvement, or enlargement of groins, jetties, dikes, moles, walls, sand dunes, vegetation, or other types of works or improvements that are designed for controlling beach erosion, for protection from hurricane floods, or for preserving or restoring facilities and natural features that afford protection to the beaches and other land areas of the county and to the life and property of the county. (1965, c. 307, s. 1; 1971, c. 1159, s. 3; 1973, c. 822, s. 1.)

**§ 153A-439. Support of extension activities; personnel rules for extension employees.**

(a) A county may support the work of the North Carolina Cooperative Extension Service and for these purposes may appropriate revenues not otherwise limited as to use by law.

(b) The policies adopted by the Board of Trustees of North Carolina State University for the employees of the North Carolina Cooperative Extension Service shall govern the employment of employees exempted from certain provisions of Chapter 126 of the General Statutes pursuant to G.S. 126-5(c1)(9a). The policies adopted by the University of North Carolina Board of Governors and the employing constituent institution shall govern the employment of employees of the North Carolina Cooperative Extension Service exempted from certain provisions of Chapter 126 of the General Statutes pursuant to G.S. 126-5(c1)(8). (1911, c. 1; C.S., s. 1297; 1957, c. 1004, s. 5; 1973, c. 822, s. 1; 2007-195, s. 3.)

**§ 153A-440. Promotion of soil and water conservation work.**

A county may cooperate with and support the work of the Federal Soil Conservation Service and the State and local soil and water conservation agencies and districts and for these purposes may appropriate revenues not otherwise limited as to use by law. (1959, c. 1213; 1961, cc. 266, 290, 301, 579, 581, 582, 584, 656, 693, 705, 809, 1126; 1963, cc. 290, 701; 1965, cc. 531, 702; 1967, c. 319; 1969, c. 64, s. 1; c. 174, s. 1; c. 1003, s. 1; 1973, c. 822, s. 1.)

**§ 153A-440.1. Watershed improvement programs; drainage and water resources development projects.**

(a) A county may establish and maintain a county watershed improvement program pursuant to G.S. 139-41 or 139-41.1 and for these purposes may appropriate funds not otherwise limited as to use by law. A county watershed improvement program or project may also be financed pursuant to G.S. 153A-301, G.S. 153A-185 or by any other financing method available to counties for this purpose.

(b) A county may establish and maintain drainage projects and water resources development projects (as those projects are defined by G.S. 153A-301) and for these purposes may appropriate funds not otherwise limited as to use by law. A county drainage project or water resources development project may also be financed pursuant to G.S. 153A-301, G.S. 153A-185, or by any other financing method available to counties for this purpose. (1981, c. 251, s. 2; 1983, c. 321, ss. 5, 6.)

**§ 153A-441. County surveyor.**

A county may appoint a person registered as a land surveyor pursuant to Chapter 89 as county surveyor. (Const., art. 7, s. 1; Rev., s. 4296; C. S., s. 1383; 1959, c. 1237, s. 1; 1973, c. 822, s. 1.)

**§ 153A-442. Animal shelters.**

A county may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law. The animal shelters shall meet the same standards as animal shelters regulated by the Department of Agriculture pursuant to its authority under Chapter 19A of the General Statutes. (1973, c. 822, s. 1; 2004-199, s. 39(a).)

**§ 153A-443. Redesignation of site of "courthouse door," etc.**

If a county determines that the traditional location of the "courthouse," the "courthouse door," the "courthouse bulletin board" or the "courthouse steps" has become inappropriate or inconvenient for the doing of any act or the posting of any notice required by law to be done or posted at such a site, the county may by ordinance designate some appropriate or more convenient location for the site. The board of commissioners shall cause such an ordinance to be published at least once within 30 days after the day it is adopted and shall cause a copy of it to be posted for 60 days at the traditional location. (1973, c. 822, s. 1.)

**§ 153A-444. Parks and recreation.**

A county may establish parks and provide recreational programs pursuant to Chapter 160A, Article 18. (1973, c. 822, s. 1.)

**§ 153A-445. Miscellaneous powers found in Chapter 160A.**

(a) A county may take action under the following provisions of Chapter 160A:

- (1) Chapter 160A, Article 20, Part 1. – Joint Exercise of Powers.
- (2) Chapter 160A, Article 20, Part 2. – Regional Councils of Governments.
- (3) G.S. 160A-487. – Financial support for rescue squads.
- (4) G.S. 160A-488. – Art galleries and museums.
- (5) G.S. 160A-492. – Human relations programs.
- (6) G.S. 160A-497. – Senior citizens programs.
- (7) G.S. 160A-489. – Auditoriums, coliseums, and convention and civic centers.
- (8) G.S. 160A-498. – Railroad corridor preservation.

(b) This section is for reference only, and the failure of any section of Chapter 160A to appear in this section does not affect the applicability of that section to counties. (1973, c. 822, s. 1; 1975, c. 19, s. 61; 1979, 2nd Sess., c. 1094, s. 3; 1981, c. 692, s. 3; 1989, c. 600, s. 6.)

**§ 153A-446. County may offer reward for information as to persons damaging county property.**

The board of county commissioners is authorized to offer and pay rewards in an amount not exceeding five hundred dollars (\$500.00) for information leading to the arrest and conviction of any person who willfully defaces, damages or destroys, or commits acts of vandalism or larceny of any county property. The amount necessary to pay said rewards shall be an item in the current expense budget of the county. (1975, c. 258.)

**§ 153A-447. Certain counties may appropriate funds to Western North Carolina Development Association, Inc.**

(a) The board of county commissioners of the counties hereafter named are authorized to appropriate funds to the Western North Carolina Development Association, Inc., for the public good and welfare of said counties. The amount to be expended by each county shall be determined in the discretion of the board of commissioners.

(b) This section shall apply to the counties of Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey. (1979, c. 674, ss. 1, 2.)

**§ 153A-448. Mountain ridge protection.**

Counties may enact and enforce mountain ridge protection ordinances pursuant to Article 14 of Chapter 113A of the General Statutes, and in such enactment and enforcement shall comply with all applicable provisions of Article 14 unless the county has removed itself from the coverage of Article 14 through the procedure provided by law. (1983, c. 676, s. 2.)

**§ 153A-449. Contracts with private entities; contractors must use E-Verify.**

(a) Authority. – A county may contract with and appropriate money to any person, association, or corporation, in order to carry out any public purpose that the county is authorized by law to engage in. A county may not require a private contractor under this section to abide by any restriction that the county could not impose on all employers in the county, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract.

(b) Repealed by Session Laws 2015-294, s. 1(c), effective October 1, 2015, and applicable to contracts entered into on or after that date. (1985, c. 271, s. 2; 2013-413, s. 5(c); 2013-418, s. 2(a); 2014-119, s. 13(b); 2015-294, s. 1(c); 2016-3, 2nd Ex. Sess., s. 2.2; 2017-4, s. 1.)

#### **§ 153A-450. Contracts for construction of satellite campuses of community colleges.**

(a) Boards of county commissioners may enter into contracts for the construction of satellite campuses of community colleges, to be located in their counties.

(b) The board of county commissioners of the county in which a satellite campus of a community college is to be constructed shall submit the plans for the satellite facility's construction to the board of trustees of the community college that will be operating the facility for its approval prior to entering into any contract for the construction of the satellite facility.

(c) A satellite facility may be used only as a satellite facility of the community college that operates it and for no other purpose except as approved by the board of trustees of the community college that has been assigned the county where the satellite facility is located as a service delivery area either by an act of the General Assembly or by the State Board of Community Colleges. (1985, c. 757, s. 148(b), (d), (e); 1987, c. 564, ss. 11, 12.)

#### **§ 153A-451. Reimbursement agreements.**

(a) A county may enter into reimbursement agreements with private developers and property owners for the design and construction of municipal infrastructure that is included on the county's Capital Improvement Plan and serves the developer or property owner. For the purpose of this act, municipal infrastructure includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities.

(b) A county shall enact ordinances setting forth procedures and terms under which such agreements may be approved.

(c) A county may provide for such reimbursements to be paid from any lawful source.

(d) Reimbursement agreements authorized by this section shall not be subject to Article 8 of Chapter 143 of the General Statutes, except as provided by this subsection. A developer or property owner who is party to a reimbursement agreement authorized under this section shall solicit bids in accordance with Article 8 of Chapter 143 of the General Statutes when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the county. (2005-426, s. 8(b).)

#### **§ 153A-452. Restriction of certain forestry activities prohibited.**

(a) The following definitions apply to this section:

- (1) Development. – Any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest use.
  - (2) Forest management plan. – A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.
  - (3) Forestland. – Land that is devoted to growing trees for the production of timber, wood, and other forest products.
  - (4) Forestry. – The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.
  - (5) Forestry activity. – Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.
- (b) A county shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates either:
- (1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of the General Statutes.
  - (2) Forestry activity that is conducted in accordance with a forest management plan.
- (c) This section shall not be construed to limit, expand, or otherwise alter the authority of a county to:
- (1) Regulate activity associated with development. A county may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:
    - a. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under county regulations governing development from the tract of land for which the permit or approval is sought.
    - b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under county regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the county regulations.
  - (2) Regulate trees pursuant to any local act of the General Assembly.
  - (3) Adopt ordinances that are necessary to comply with any federal or State law, regulation, or rule.
  - (4) Exercise its planning or zoning authority under Article 18 of this Chapter. (2005-447, s. 1.)

**§ 153A-453. Quarterly reports by Mental Health, Developmental Disabilities, and Substance Abuse Services area authority or county program.**

Quarterly reports by the area director and finance officer of Mental Health, Developmental Disabilities, and Substance Abuse Services area authorities or county programs shall be submitted to the county finance officer as provided under G.S. 122C-117(c). (2006-142, s. 3(b).)

**§ 153A-454. Stormwater control.**

(a) A county may adopt and enforce a stormwater control ordinance to protect water quality and control water quantity. A county may adopt a stormwater management ordinance pursuant to this Chapter, other applicable laws, or any combination of these powers.

(b) A federal, State, or local government project shall comply with the requirements of a county stormwater control ordinance unless the federal, State, or local government agency has a National Pollutant Discharge Elimination System (NPDES) stormwater permit that applies to the project. A county may take enforcement action to compel a State or local government agency to comply with a stormwater control ordinance that implements the National Pollutant Discharge Elimination System (NPDES) stormwater permit issued to the county. To the extent permitted by federal law, including Chapter 26 of Title 33 of the United States Code, a county may take enforcement action to compel a federal government agency to comply with a stormwater control ordinance.

(c) A county may implement illicit discharge detection and elimination controls, construction site stormwater runoff controls, and post-construction runoff controls through an ordinance or other regulatory mechanism to the extent allowable under State law.

(d) A county that holds a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to G.S. 143-214.7 may adopt an ordinance to establish the stormwater control program necessary for the county to comply with the permit. A county may adopt an ordinance that bans illicit discharges. A county may adopt an ordinance that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project. (2006-246, s. 17(a).)

**§ 153A-455. Program to finance energy improvements.**

(a) Purpose. – The General Assembly finds it is in the best interest of the citizens of North Carolina to promote and encourage renewable energy and energy efficiency within the State in order to conserve energy, promote economic competitiveness, and expand employment in the State. The General Assembly also finds that a county has an integral role in furthering this purpose by promoting and encouraging renewable energy and energy efficiency within the county's territorial jurisdiction. In furtherance of this purpose, a county may establish a program to finance the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently affixed to residential, commercial, or other real property.

(b) Financing Assistance. – A county may establish a revolving loan fund and a loan loss reserve fund for the purpose of financing or assisting in the financing of the purchase and installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, or other real property. A county may establish other local government energy efficiency and distributed



generation renewable energy source finance programs funded through federal grants. A county may use State and federal grants and loans and its general revenue for this financing. The annual interest rate charged for the use of funds from the revolving fund may not exceed eight percent (8%) per annum, excluding other fees for loan application review and origination. The term of any loan originated under this section may not be greater than 20 years.

(c) Definition. – As used in this Article, "renewable energy source" has the same meaning as "renewable energy resource" in G.S. 62-133.8. (2009-522, s. 2; 2010-167, s. 4(a).)

#### **§ 153A-456. Limitation on the use of public funds.**

A county shall not use public funds to endorse or oppose a referendum, election or a particular candidate for elective office. (2010-114, s. 1.5(a).)

#### **§ 153A-457. Notice prior to construction.**

(a) A county shall notify the property owners and adjacent property owners prior to commencement of any construction project by the county.

(b) Notice under this section shall be in writing at least 15 days prior to the commencement of construction, except in any of the following instances:

- (1) If the construction is of an emergency nature, the notice may be given by any means, including verbally, that the county has for contacting the property owner within a reasonable time prior to, or after, commencement of the construction.
- (2) The property owner requests action of the county that requires construction activity.
- (3) The property owner consents to less than 15 days' notice.
- (4) Notice of the construction project is given in any open meeting of the county prior to the commencement of the construction project.

(c) For purposes of this section, "construction" shall mean the building, erection, or establishment of new buildings, facilities, and infrastructure and shall not include routine maintenance and repair. (2015-246, s. 12(a); 2015-286, s. 1.8(c).)

**§ 153A-458.** Reserved for future codification purposes.

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**§ 153A-464.** Reserved for future codification purposes.

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